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Message: Enclosed is a Supplement to the Rule 312 Amendment submitted on November 29, 2005.

Serial No. 10/051,662

In Reference to Applicant: Rodriguez et al.

Filed: January 18, 2002

For: Prevention of Ovarian Cancer By Administration of Vitamin D. Compound.

Group Art Unit: 1614

Total number of pages including this cover sheet:

Time Sent: 9:15 p.m.

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Applicants:	Rodriguez, et al.)	
)	
Serial No.:	10/051,662)	Examiner: R. Cook
)	
Filed:	January 18, 2002)	Group Art Unit: 1614
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For:	Prevention of Ovarian Cancer by)	
	Administration of a Vitamin D Compound)	

Commissioner For Patents
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SUPPLEMENT TO RULE 312 AMENDMENT

Applicants provide this supplement to the Rule 312 Amendment submitted on November 29, 2005. Applicants are submitting this amendment to provide full disclosure of Dr. Rodriguez's relationship with Dr. Jean Hurteau, a person who filed a declaration in support of this application. Applicants provide this information because Dr. Hurteau's relationship with Dr. Rodriguez recently changed and because of a recent Federal Circuit case.

Applicants submitted the Declaration of Dr. Jean Hurteau dated April 24, 2005 with an Amendment and Response filed on April 26, 2005. As of April 24, 2005, Dr. Hurteau was employed by the University of Illinois in Chicago as the Director of the Division of Gynecologic Oncology.

1. Applicant's Current Relationship to Dr. Hurteau at ENH- Applicants brings to the Examiner's attention the fact that on February 1, 2006, Dr. Hurteau became employed by Evanston Northwestern Healthcare ("ENH") in the Division of Gynecologic Oncology. Applicant Dr. Rodriguez is the Director of the Division of Gynecologic Oncology at ENH and Dr. Hurteau now works under Dr. Rodriguez. At the time of filing the Hurteau Declaration in

April 2005, neither Dr. Rodriguez nor Dr. Hurteau had any expectation that Dr. Hurteau would join ENH, or might even consider joining ENH.

In April 2005, there were three physicians in the Division of Gynecologic Oncology at ENH. However, in July 2005, one of the physicians (who was in his early 40's) unexpectedly resigned from the practice to change careers from surgery to instead run a family medical business. With a need to replace the departing physician, Dr. Rodriguez asked Dr. Hurteau to consider employment at ENH. As noted below, Dr. Hurteau and Dr. Rodriguez had met at Duke University in 1992 and had developed a professional and social relationship. In 2005, Dr. Hurteau was the Director of the Division of Gynecologic Oncology at the University of Illinois. At that time, he was also recruited by Northwestern University in downtown Chicago to join its Division of Gynecologic Oncology. In November 2005, Dr. Hurteau decided to accept the position at ENH instead of the position at Northwestern University.

Applicants note that ENH has never had any financial interest in this patent application or any patents of applicants. Moreover, as noted above, in April 2005, neither Dr. Rodriguez nor Dr. Hurteau had any expectation that Dr. Hurteau would join the Division of Gynecologic Oncology at ENH. Moreover, Dr. Hurteau's declaration had no bearing on his being recruited or hired by ENH. Dr. Hurteau was also being recruited by Northwestern University in downtown Chicago to join its Division of Gynecologic Oncology at the same time that he was considering ENH.

2. Duke University's Relationship to Dr. Hurteau and Dr. Rodriguez- Applicants also note that, as Dr. Hurteau set forth in his April 24, 2005 declaration, Dr. Hurteau received specialty training from 1992-1995 in Gynecologic Oncology at Duke University. As Dr. Rodriguez set forth in his September 1, 2004 Declaration filed in this application, Dr. Rodriguez

received specialty training in Gynecologic Oncology at Duke University from 1989-1992 and he is an adjunct professor at Duke. Dr. Rodriguez and Dr. Hurteau met at Duke University in 1992. Dr. Rodriguez was an attending physician/associate professor at Duke University in the Division of Gynecologic Oncology when Dr. Hurteau received his specialty training. Thus, Duke employed both Dr. Hurteau and Dr. Rodriguez for some time, and Dr. Rodriguez contributed to Dr. Hurteau's training. After Dr. Hurteau completed his training in 1995, he and Dr. Rodriguez maintained a personal and academic relationship. In addition, when Dr. Hurteau was recruited to join the Department of Obstetrics and Gynecology at University of Illinois, Dr. Rodriguez encouraged the move as it was an excellent academic opportunity.

Applicants note that the Federal Circuit recently stated the following with respect to supplying affidavits of colleagues from the same prior employer, in a case where that employer owned the patent application at issue:

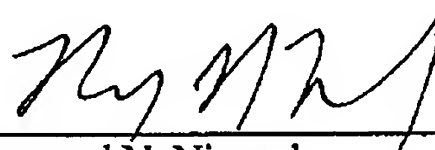
In coming to this conclusion, we fully recognize that inventors *often consult their colleagues or other person skilled in the art whom they have met during the course of their professional life.* Accordingly, when an inventor is asked to provide supportive declarations to the PTO, it may be completely natural for the inventor to recommend, and even contact, his own colleagues or people who are, or who have been, *affiliated with his employer* and to submit declarations from such people. Nothing in this opinion should be read as discouraging such practice. Rather, at least where the objectivity of the declarant is an issue in the prosecution, the inventor must disclose the known relationships and affiliations of the declarants so that those interests can be considered in weighting the declarations.

Ferring B.V. v. Barr Laboratories, Inc., No. 05-1284, ___ F.3d, ___, 2006 WL 335601 (Fed. Cir. Feb. 15, 2006). Dr. Rodriguez met Dr. Hurteau at Duke, and developed a professional and social relationship there. However, Duke had no financial interest in the patent applications (we also note that Dr. Hurteau's relationship with Duke was disclosed in his Declaration). Since Dr. Hurteau's departure from Duke in 1995, Dr. Rodriguez and Dr. Hurteau had no financial

connection until after Dr. Hurteau filed his declaration (both are now employed by ENH as noted above).

In an abundance of caution, applicants provide this information for the Examiner. Examiner can weigh the information, as she deems appropriate. However, applicants note that Dr. Hurteau did not have any financial connection to ENH or Dr. Rodriguez when he filed the Declaration in April 2005. Dr. Hurteau's decision to accept a position at ENH under Dr. Rodriguez should not retroactively impact his credibility. Therefore applicants submit that Dr. Hurteau's declaration should still be given full weight.

Respectfully submitted,



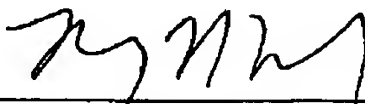
Dated: March 1, 2006

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Dated: March 1, 2006



Raymond M. Nimrod